IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Company Appeal No. 1 of 2006

Modipon Limited,
Through its Chemical Division,
Indofil Chemicals Company,
A company incorporated under the
provisions of the Companies Act, 1956,
having its registered office at Modi Nagar, UP 201204
and having its head office at Nirlon House,
Dr. Annie Besant Road, Mumbai – 400 030,
Through Mr. Sanjeev Mehta,
All India Sales Manager. ……. Appellant

Versus

The Rishabh Velveleen Ltd.,
A Company incorporated under the
Provisions of the Companies Act, 1956,
having its registered office at 9th KM Haridwar Delhi Road,
Jwalapur, Haridwar, Uttaranchal 249 407,
Through the Managing Director. …….. Respondent

Mr. Alok Singh, Senior Counsel with Mr. Akhil P. Chhabra, Advocate for the appellant.
Mr. P.R. Mullick and Mr. Munish Bhardwaj, Advocates for the respondent.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Alok Singh, Senior Counsel with Mr. Akhil P. Chhabra, Advocate for the appellant is heard on admission.

2. Admit.

3. Mr. P.R. Mullick, Advocate takes notice on behalf of the respondent.

4. As the learned counsel for the parties are prepared and willing to argue the appeal finally, they are heard.

5. The appellant has filed this Company Appeal against the impugned order dated 12.05.2006 passed in Company Petition No. 2 of 2006, whereby the learned Company Judge has vacated the interim order dated 03.03.2006, which was extended on 12.04.2006.

6. In the Company Petition, following interim order was passed on 03.03.2006:

> "Heard Sri Alok Singh Senior Advocate assisted by Sri Akhil Chabra learned counsel for the petitioner.
>
> Issue Notice to the respondent returnable within Three weeks.
>
> In the meantime, the respondent shall not create third party interests on the immovable assets of the company till the next date of listing.
>
> However, petitioner is given liberty to serve Dasti notice upon the respondent in addition to the normal mode of service.
>
> List on 12.4.2006."

7. The said interim order was extended vide order dated 12.04.2006.

8. On the application filed by the respondent Company in the Company Petition (CLMA No. 5685 of 2006), the impugned order dated 12.05.2006 was passed, whereby the interim orders dated 03.03.2006 and 12.04.2006 were vacated.

9. Mr. Alok Singh, the learned Senior Counsel for the appellant submits that the appellant Company has the apprehension that the respondent Company, with a view to defeat the appellant's claim in the Company Petition, will dispose of the immovable assets and as such, an interim order protecting the interest of the appellant Company may be passed in the matter.

10. Mr. P.R. Mullick, the learned counsel for the respondent Company, on the other hand, submitted that the interim order dated

03.03.2006 passed in the Company Petition was creating practical difficulty for the respondent Company in obtaining loan and working capital from the banks on the security of the immovable assets of the respondent Company.

11. On due consideration of the submissions of the learned counsel for the parties and with a view to protect the interest of the petitioner and so also of the respondent, we direct that the respondent Company shall not alienate its immovable assets during the pendency of the Company Petition except for the purposes of obtaining loan and working capital from a nationalized bank.

12. With the above order, the appeal stands disposed of.

(Prafulla C. Pant, J.) 06.06.2006

(Rajeev Gupta, C. J.) 06.06.2006

G